

APPEAL NO. 052418  
FILED FEBRUARY 1, 2006

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on September 28, 2005. The hearing officer determined that the appellant (claimant) was not entitled to supplemental income benefits (SIBs) for the 9th and 10th quarters. The claimant appealed and the hearing officer's decision of nonentitlement for the 9th and 10th SIBs quarters became final. On October 7, 2005, the hearing officer issued a "Commission Order for Attorney's Fees" which ordered attorney's fees to be paid pursuant to Section 408.147(c) and 28 TEX. ADMIN. CODE § 152.1(f) (Rule 152.1(f)), approving the \$1,725.00 requested for fees and expenses. The claimant appealed, stating his disagreement with the fees awarded to his attorney. The appeal file does not contain a response from either Respondent 1 (attorney) or Respondent 2 (carrier).

DECISION

Reversed and rendered.

The attorney's fees in issue are for work done by the claimant's attorney in regard to the issue of the claimant's entitlement to 9th and 10th quarter SIBs. Since the Appeals Panel has held that the hearing officer's decision that the claimant is not entitled to SIBs for the 9th and 10th quarters is final, the carrier is not liable under Section 408.147(c) for attorney's fees incurred by the claimant that resulted from the carrier's dispute of the claimant's entitlement to SIBs for those quarters because the claimant did not prevail on the disputed issue. Since the claimant had no recovery on the issue of entitlement to 9th and 10th quarter SIBs, the claimant's attorney's request for attorney's fees should have been denied. Section 408.221(b). See *also* Appeals Panel Decision (APD) 980223, decided March 11, 1998. If the claimant had prevailed on the issue of SIBs entitlement for the 9th and 10th quarters, the carrier would have been liable for his reasonable and necessary attorney's fees.

We reverse the hearing officer's attorney's fees order of October 7, 2005, and render a decision denying the fee request of the claimant's attorney.

The true corporate name of the insurance carrier is **LIBERTY MUTUAL FIRE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEMS  
350 NORTH ST. PAUL, SUITE 2900  
DALLAS, TEXAS 75201.**

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Margaret L. Turner  
Appeals Judge

CONCUR:

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Thomas A. Knapp  
Appeals Judge

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Robert W. Potts  
Appeals Judge